

CERTIFIED ORIGINALDEFENDANT
EXHIBIT
C

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

3 Civil Action No. 3:CV-11-1609

4 DEPOSITION OF DAVE HILL
5 July 16, 2014

6 DAVID E. HILL,

7 Plaintiff,

8 v.

9 HARLEY LAPPIN, et al.,

10 Defendants.

11 A P P E A R A N C E S

12 For the Plaintiff: DAVE E. HILL, Pro Se
13 Registration No. 12585-007
14 USP Florence High
P.O. Box 7000
Florence, Colorado 81226

15 For the Defendants
16 Harley Lappin, et al.: TIMOTHY S. JUDGE, ESQ.
U.S. Department of Justice
United States Attorney's Office
Wm J. Nealon Federal Building
235 North Washington Avenue
Scranton, Pennsylvania 18503

17 and
18
19

20 MICHAEL S. ROMANO, ESQ.
21 U.S. Department of Justice
22 Bureau of Prisons
23 USP Lewisburg
24 2400 Robert F. Miller Drive
Lewisburg, Pennsylvania 17837

25 Also Present: Counselor Leggitt

Deposition of DAVE HILL, a Plaintiff called by the Defendants in the above-entitled matter on Wednesday, the 16th day of July, 2014, commencing at the hour of 8:56 a.m., at USP Florence High, Florence, Colorado, before Priscilla Naff Medina, Professional Court Reporter and Notary Public within and for the State of Colorado, said deposition being taken pursuant to Notice and the Federal Rules of Civil Procedure.

INDEX

Page Number

Examination by Mr. Judge

E X H I B I T S

Exhibit Number **Initial Reference**

1 Two-Hour Lieutenant Restraints Check Form 31
(24-Hours)

PROCEEDINGS

DAVE HILL,

the Plaintiff herein, having been first duly sworn, was examined and testified on his oath as follows:

EXAMINATION

BY MR. JUDGE:

Q Okay, Mr. Hill, what's your first name, sir?

A Dave.

Q And your last name is?

A Hill.

Q And can you spell that please?

A H-i-l-l.

Q Okay. And currently, as you see, we have a court reporter here, this is a deposition (indicated). Have you ever had your deposition taken before?

A No.

Q Okay. So a deposition is very similar to testimony at a trial, all the same rules apply as far as you having to tell the truth, perjury applies, so you're going to want to be as truthful and honest as you can be, it's as though you're -- you're giving testimony before The -- The Court.

A Yeah.

Q Although there's no judge here, we just have
the court reporter, myself, yourself; Agency counsel, Mr.

1 they escorted me to the shower, at that time that's when
2 they placed am -- ambulatory restraints on me.

3 Q Okay, let me stop you there. Can you explain
4 for the record what ambulatory restraints are?

5 A Well, handcuffs was black box with a chain and
6 leg irons.

7 Q Sorry to interrupt. Sorry to interrupt.
8 Please continue.

9 A Oh. I -- they applied the ambulatory
10 restraints, I was escorted downstairs on the first floor
11 in D block, placed in 127 cell I believe, or 28, and
12 that's where I remained till several hours later he came
13 back and he asked me would I take a cellie -- if I -- if I
14 come out of restraints would I take a cellie, and I told
15 him yeah.

16 So he took me to the first floor shower in D
17 block and put me in a shower cage and removed the
18 ambulatory restraints. At that time, once he took the
19 ambulatory restraints off --

20 Q Can I stop you right there?

21 A Yeah.

22 Q When you say "he," you mean Hepner?

23 A Yeah.

24 Q Continue.

25 A When Lieutenant Hepner took the ambulatory

1 restraints off I told him I wasn't going to take a cellie,
2 so that's when he got mad, he said, "Motherfucker, you
3 going to pay," and he left the shower.

4 At that time I guess maybe 40, 60 minutes went
5 past again, he came back with the team again and asked me
6 to cuff up, so at that time I complied with the order cuff
7 up, and they pulled me out the shower and -- you know,
8 they was kind of aggressive -- put the restraints on me
9 and took me to D block.

10 Q And that's when they put you into the
11 four-point --

12 A Four-point restraints.

13 Q Can you describe four-point restraints, please?

14 A Well -- yes. They basically just four sets of
15 handcuffs, they lay you down on a concrete bed, you know,
16 and put you like you on a cross or something, with your
17 hands spread out, and they cuff your legs and your wrists
18 to the bed, and that's where you remain till they come and
19 check you.

20 Q Okay. Have you ever been in four-points before
21 this?

22 A No.

23 Q So this is -- this is the first time you were
24 ever in four-point restraints?

25 A Yes.

1 Q Had you ever been in ambulatory restraints
2 before?

3 A Yes.

4 Q Okay. About how many times before that morning
5 had you been in ambulatory restraints?

6 A Maybe about 10, 11, I don't . . .

7 Q About 10 or 11 times?

8 A Several, yeah.

9 Q Okay. And has -- was that all at Lewisburg, or
10 at other institutions as well?

11 A Just Lewisburg.

12 Q Okay. So any time that you were put -- placed
13 in ambulatory restraints was only at Lewisburg up until
14 this point in time?

15 A Yes.

16 Q When I say "this point in time," I mean on
17 the -- on June 22nd, 2010.

18 A Yeah, Lewisburg was the only institution
19 exercise that proce -- procedure on me, so . . .

20 Q Okay.

21 THE COURT REPORTER: Excuse me?

22 THE WITNESS: Up until here.

23 Q (By Mr. Judge) So at USP Florence, in the --
24 in the current SMU program that you're in now, or ADX
25 referral, you were placed in ambulatory restraints here as

1 well?

2 A The 224 that I just caught --

3 Q Okay. Yeah.

4 A -- that -- that was the other day, I think that
5 was on the 10th of this month -- they put me in ambulatory
6 restraints.

7 Q Was that the first time you were in ambulatory
8 restraints here at Florence?

9 A Yes.

10 Q Okay. So that's the only time, outside of
11 Lewisburg, that you have been in ambulatory restraints?

12 A Yes.

13 Q Okay. And how long were you in ambulatory
14 restraints after the most recent incident?

15 A About an hour.

16 Q Okay. And the 10 or 11 times that you were in
17 ambulatory restraints at Lewisburg, about how long did
18 each of those last?

19 A Usually overnight. Twenty-four hours
20 overnight.

21 Q So each one of them was roughly at least 24
22 hours?

23 A Yes, at the -- at the minimum.

24 Q Okay. Now, is that except for the day that you
25 were four-point, is that an exception to the 24 hours?

1 Because you were placed in ambulatory restraints for a
2 couple of hours before being put into four-points,
3 correct?

4 A Yes.

5 Q Okay. So other than that one, which,
6 apparently, was only for a couple of hours before you were
7 placed in four-points --

8 A Yes.

9 Q -- the other 10 or 11, am I correct that they
10 were for at least 24 hours?

11 A Yes.

12 Q Okay. Just want to be clear on that.

13 And what's your understanding as to why you, or
14 any inmate, would be placed into ambulatory restraints?

15 A Well, usually, in Lewisburg, if you don't take
16 a cellie -- you refuse a cellie that's -- they going to
17 write you a shot for threatening staff and put you in
18 ambulatory restraints, that's justification for not taking
19 that cellie. So, you know, basically the extent of my
20 time being spent in ambulatory restraints was -- was not
21 accepting a cellie.

22 Q Okay, so for those 10 or 11 times generally
23 that was for --

24 A For not taking cellies, yes.

25 Q Okay.

1 came, ac -- according to the log entry, is 4 p.m.
2 "Describe Inmate's Behavior," I can't read the first word,
3 but, then, it states "still acting aggressive. Stated 'I
4 can be here forever and won't change.' Action Taken:
5 Continue in Restraints."

6 Do you remember making that statement --

7 A No.

8 Q -- at all? Okay. Do you remember him asking
9 you any questions at that time?

10 A No, he didn't ask me any questions.

11 Q Do you remember him coming in and saying
12 anything to you?

13 A He didn't initiate anything, any conversations,
14 I was basically one that was asking to see medical or, you
15 know, I need to use the bathroom, you know.

16 Q Okay. And he indicates here, "Desired Calming
17 Effect," he checks, "No"; "Toilet Use," he checks "No."

18 Then he checked again at 6 p.m., he indicated
19 that -- again, I can't read the first word -- then "stated
20 'fuck this shit,' 'I can do this all night.'" Do you
21 remember making any statement like that?

22 A No.

23 Q Okay. He indicates that he gave you water, do
24 you remember that?

25 A Yes.

1 Q Did he have to release one of your restraints
2 to do that?

3 A Yes.

4 Q Okay. Did you say anything else to him at that
5 time?

6 A I can't recall.

7 Q Okay. And, then, you were placed back into
8 your restraints --

9 A Yes.

10 Q -- after using the urinal?

11 A Yes.

12 Q Okay.

13 When -- when we say "urinal," we're talking
14 about the bottle?

15 A Yeah, a little bottle, plastic container.

16 Q Similar to what they use in hospitals?

17 A Yes.

18 Q (Reviewed document.)

19 Do you remember Lieutenant Stuart asking you
20 anything else?

21 A No.

22 Q And you don't remember saying anything else to
23 Lieutenant Stuart?

24 A You know, basically -- not -- it's been awhile
25 like I say, not -- not at this particular moment.

1 Q Okay. And he conducted checks, it looks like
2 the first one was at midnight on 6/23/2010, and that was
3 where he first allowed you to use the urinal; and, then,
4 it looks like he made another one at 2 a.m., and he
5 indicates that he gave you 8 ounces of water, do you
6 recall that?

7 A That's probably correct.

8 Q Okay. Do you remember if you asked him for
9 water or if he offered water?

10 A I believe I may have asked him for water.

11 Q Okay.

12 A Yeah.

13 Q And do you remember anything else that you
14 might have said to him or that he would have said to you?

15 A No.

16 Q Okay.

17 Okay, the next check it looks like that he made
18 was at 4 a.m. on 6/23/2010, indicates that he gave you use
19 of a urinal at that time, do you recall that?

20 A Probably.

21 Q Okay. Do you remember being let out of a
22 restraint and using the urinal at that time?

23 A Yes.

24 Q Okay. Did you ask to use the urinal or did he
25 offer?